

JUN 22 2007

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
MUR 5897
Battles for Congress 2002

2007 JUN 22 **SENSITIVE**

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5897 as a low-rated matter. In this case, the complainant cites to a deposition in a civil suit where an employee testified that although she was employed and paid by Custer Battles, LLC¹, she actually was used by the Battles for Congress 2002 ("Committee") campaign committee as a campaign worker for one week. Thus, the complainant concludes that the Committee failed to report the value of the worker's labor as a contribution to the Committee. There were no responses from the Committee, the candidate, or Custer Battles, LLC.

The allegations in this matter appear to center on a one-week period of employment that took place during the 2002 election cycle. Thus, in light of the possibility that the statute of limitations may have run on this matter coupled with the de minimis nature of the allegations and in furtherance of the Commission's priorities and resources, relative to other matters pending on the Enforcement docket, the Office of General Counsel believes that the

¹ It should be noted that the complainant states that the candidate, Michael Battles, is a part owner of Custer Battles, LLC.

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Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5897, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

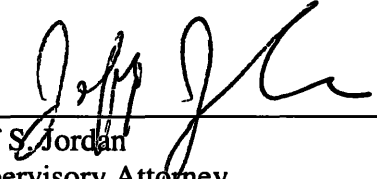
Thomasenia P. Duncan
General Counsel

6/22/07
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5897

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5 **MUR 5897**

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7 **Complainant:** Victor A. Kubli

8
9 **Respondents:** Battles for Congress and
10 Gil Baird, as Treasurer
11 Custer Battles, LLC
12 Michael Joseph Battles
13

14 **Allegations:** The complainant alleges that the Battles for Congress ("Committee") failed
15 to report an in-kind (possibly prohibited) contribution from Custer Battles, LLC. The
16 complaint cites to a deposition in a civil suit where an employee testified that although
17 she was employed and paid by Custer Battles, LLC, she actually was used by the
18 Committee as a campaign worker for one week. Thus, the complainant concludes that
19 the Committee failed to report the value of the worker's labor as a contribution to the
20 Committee. The activity at issue took place during the 2002 election cycle.
21

22 **Response:** There were no responses received in this matter.
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